

*IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "SMC" KOLKATA*

Before **Shri S.S, Godara, Judicial Member**

विविध आवेदन (Misc. Application) M.ANo.159 & 160/Kol/2019 (arising out ITA No.1451- 1452/Kol/2018) निर्धारण वर्ष / Assessment Year:2009-10
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Income Tax Officer Ward-2(3), Aaykar Bawan, Court Compund,Burdwan- 713101	<u>बनाम /</u> V/s.	Shri Dilip Singha Roy Deepshikha, Khanro Sultanpur More, P.O. Memari, Burdwan- 713146 [PAN No. BCGPS 5668 M] Smt. Sikha Singha Roy Deepshikha, Khanro Sultanpur More, P.O. Memari, Burdwan- 713146 [PAN No. BVUPS 2777 L]
अपीलार्थी /Applicant	..	प्रत्यर्थी /Respondent

आवेदक की ओर से/By Assessee	Shri Miraj D Shah, Advocate
राजस्व की ओर से/By Revenue	Shri Shankar Halder, JCIT-SR-DR
सुनवाई की तारीख/Date of Hearing	13-09-2019
घोषणा की तारीख/Date of Pronouncement	13-09-2019

आदेश /O R D E R

The Revenue have filed its instant miscellaneous application(s) u/s 254(2) of the Income Tax Act 1961;in short ‘the Act’ in case of as many assesseees seeking to recall / rectify order dated 15.03.2019 allowing the main appeal(s) raising the issue of bogus Long Term Capital Gains.

Heard both the learned representatives. Cases file(s) perused.

2. Learned counsel representing assessee is very fair in not opposing the Revenue’s identical plea that the instant lis in both assesseees’s case does not raise the bogus long term capital gains issue. I therefore accept the Revenue’s instant

miscellaneous applications MA No.159-160/Kol/2019 on this count alone as my impugned order dated 15,03,2019 suffers from an apparent error on the face of record.

3. Coming to the merits involved in both these cases with the consent of the learned representative, I find that the Assessing Officer as well as CIT(A) have proceed to add their cash deposits as unexplained cash credits. Learned counsel's case during the course of hearing; as per detailed evidence filed on record, is that these two assesseees had withdrawn the impugned sums from their partnership's account and also received gifts from family members which has nowhere been considered in the lower proceedings. I therefore deem it appropriate to restore these instant lis back to the Assessing Officer for afresh adjudication as per law within three effective opportunities of hearing. Learned counsel for the assessee states that both these assesseees shall appear before the Assessing Officer on or **before 10th January, 2020** alongwith copy of my instant remand direction at their own risk and responsibility. I order accordingly

4. These two Revenue's miscellaneous applications MA No.159 & 160/Kol/2019 are allowed whereas assesseees' main appeal(s) ITA No.1451 & 1452/Kol/2018 are allowed for statistical purposes in above terms. ***A copy of this order be placed in the respective case file(s).***

Order pronounced in open court at the time of the hearing on 13th September, Friday 2019

Sd/-

(S.S. Godara)

Judicial Member

Kolkata,

*Dkp/Sr.PS

दिनांक:- 13/09/2019 कोलकाता

आदेश की प्रतिलिपि अद्येषित / Copy of Order Forwarded to:-

1. आवेदक/Assessee-Shri Dilip Singha Roy / Smt. Sikha Singha Roy, Deepshikha, Khanro Sultanpur More, P.O. Memari, Burdwan-713146
2. राजस्व/Revenue-Income Tax Officer, Ward-2(3), Aaykar Bhawan, Court Compound Burdwan-713101
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A) 5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाइल / Guard file.

/True Copy/

By order/आदेश से,

सहायक पंजीकार

आयकर अपीलीय अधिकरण, कोलकाता ।